

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 450 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No.

DIVISIONAL CONTROLLER

Versus

SALAM ALI ABDULLA ARAB

Appearance:

MR YS LAKHANI for Petitioners

MR HK RATHOD for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 02/04/97

ORAL JUDGEMENT

Rule. Mr. Rathod waives service of Rule on behalf of respondent.

I have heard learned counsel and I have also gone through the Award. The respondent was a driver with the Gujarat State Road Transport Corporation. After holding an inquiry for proved charge of misconduct he was dismissed from the service. The respondent-workman

raised the industrial dispute. The Labour Court, Vadodara, vide its Award dated 16.8.96 passed in Reference (L.C.V) No.1208/93 has modified the punishment from dismissal to that of termination simpliciter and in addition to it, it has also awarded an amount of Rs.15,000/- to be paid to the respondent-workman. It has been found by the Labour Court itself that the charge had been rightly held to be proved but while exercising the powers under S.11A of the I.D.Act, the punishment of dismissal has been found to be excessive and the same has been reduced to that of termination simpliciter. So far as the reduction of this punishment from dismissal to that of termination simpliciter is concerned, the Award does not warrant any interference by this Court. However, the grant of Rs.15,000/- as compensation to the respondent-workman for the loss of job does not appeal to the sound exercise of judicial discretion under S.11A of the I.D.Act, more particularly because the Labour Court itself found the charge to be proved. Once the charge had been found to be proved in an inquiry, while reducing the punishment, the Corporation should not be called upon to pay a sum of Rs.15,000/- to the respondent-workman when the Corporation was not at all at fault.

In this view of the matter, the impugned Award dated 16.8.96 is hereby modified to the extent that the respondednt-workman shall not be entitled to any relief for grant of Rs.15,000/- or the anciliary direction with regard to payment of interest etc, but the relief of reduction of punishment from dismissal to that of termination simpliciter is upheld and it follows as a natural consequence that the respondent-workman shall be entitled to get all his retiral benefits for the period for which he had served the Corporation prior to the date of his dismissal. Such dues, if not paid already by this time, shall be paid to the respondednt-workman at the earliest possible opportunity, but in no case later than 31.5.97.

This Special Civil Application is accordingly allowed in part and the Rule is made absolute accordingly. No order as to costs.